

## Governance and Institutions

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# Governance and institutions<sup>6</sup>

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## Introduction

Governance, at both the global and national levels, has long been an important focus of international development efforts. However, while there is a long history of global goal setting, there has been very little goal setting on national governance and institutions. Global governance was incorporated into the MDGs as Goal 8 (Develop a global partnership for development), but there was no domestic governance goal. The proposed inclusion of Goal 16 in the SDGs (Promote peaceful and inclusive societies for sustainable development, provide access to justice for all and build effective, accountable and inclusive institutions at all levels) by the Open Working Group for Sustainable Development Goals (2014) is therefore genuinely novel and important. In this chapter we take a step back to try and clear up some conceptual confusion around the status of governance in international goal setting, as well as flag up the likely political challenges facing the SDGs. We evaluate the historical process of governance goal setting, progress in the area, and finally assess the current debates and propose the most important issues facing the future of governance and development goals.

Our starting point is a general definition of governance as ‘the institutions, mechanisms or processes backed by political power and/or authority that allow an activity or set of activities to be controlled, influenced or directed in the collective interest’ (Baker, Hudson & Woodward 2005: 4). This definition includes

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laws (hard and soft), regulations, and agreements; organisations (national, local and regional governments, international bodies, secretariats, NGOs, and businesses); shared norms of behaviour; and the balance of power therein. This definition allows us to make three key framing points that inform the rest of the chapter: domestic-global, goal-process, and management-politics.

First, a key distinction is the different, and often separate, debates around domestic and global governance. Second, it is important to be clear as to whether we are, and indeed should be referring to a governance goal, such as improving state capacity by  $x\%$  or transparency by  $y\%$ , or governance as the process by which other goals are achieved or delivered. Third, governance is often reduced to management; however, governance is really about politics, which is the collective social activity through which people make, preserve, and amend the rules that regulate the production, distribution, and use of resources (Heywood 2014; Lasswell 1936; Leftwich 2004). This means that governance is about much more than technical management, it is also fundamentally about power, interests, values, authority, and legitimacy. Governance not only concerns the distribution of power and wealth, but it is also the process through which the current system is maintained or contested.

### **What is the historical process by which goal setting in this sector has developed?**

Since the emergence of international development as an area of global policy following the Second World War, there has been much emphasis placed on governance at the global and national levels. At the global level, the emphasis has traditionally been on the transfer of finance and knowledge from richer to poorer nations, while the focus on national governance centred around the belief that democracy was fundamental to the development process (Hudson and Dasandi 2014).

The United Nations Millennium Declaration, from which the MDGs evolved, makes explicit reference to promoting democracy and strengthening the rule of law (UNGA 2000). The MDGs partnership between richer and poorer nations is based on a 'compact', in which richer nations commit themselves to meeting aid obligations, while poorer countries provide the 'appropriate policy context for development', including good governance, sound economic decision making, transparency, accountability, rule of law, respect for human rights and civil liberties, and local participation (Greig et al. 2007; UNDP 2003). The question that arises, then, is why the MDGs themselves prioritised (an admittedly weak and non-binding) global governance goal while domestic governance goals were completely absent? We suggest three reasons.

First, United Nations member states (the donors in particular) were unable to agree on what a domestic governance goal should consist of (White and Black 2004). In particular, this relates to democracy. While this has been a normative

principle of the donor countries, there has been a long debate on whether or not democracy is necessary for development, especially as a number of the most successful developing countries, particularly the East Asian ‘tiger’ economies, and now Rwanda and Ethiopia, have been autocratic. This doubt, plus collective concerns about sovereignty, helped trump any attempts to include a democracy goal.

Second, the MDGs were an explicit attempt to move away from the Washington Consensus and its associated aid conditionality where, to receive aid, and in particular emergency loans, developing countries had to implement a series of market-based policy reforms. The consensus was that this had been a failure (Chang 2003; Easterly 2001). Given this, there was a concerted effort to move from macroeconomic policy reform towards a results-based approach to human development goals (Greig et al. 2007; Wilkinson and Hulme 2012).

Third, the MDGs were based on an understanding of poverty promoted by Jeffrey Sachs, the director of the Millennium Project. For Sachs, poverty is a function of past poverty and adverse geography, not primarily bad governance (Sachs 2005; Sachs et al. 2004; UNDP 2006). As such, the MDGs framework was based on the premise that developing countries required a large amount of aid to escape their ‘poverty trap’ (Hudson 2015).

Hence, to move past macroeconomic aid conditionality, the international community moved away from emphasising domestic causes of poverty and instead focused on the global partnership. Yet since then, there has been growing attention given to the role of domestic political institutions as a primary obstacle to development. As such, there has been a shift away from focusing on global governance towards a greater focus on national governance.

### **What progress has been achieved in this sector through the Millennium Development Goals and other processes?**

The MDGs had a limited focus on governance and institutions. Primarily, governance was conceived as the management of global cooperation and as the partnership between donors and partner countries. Yet MDG 8 was notable for its lack of quantified and time-bound targets (e.g. Target 8.A, Develop further an open, rule-based, predictable, non-discriminatory trading and financial system). It was characterised by somewhat oblique measures of a global partnership (e.g. Target 8.F, In cooperation with the private sector, make available the benefits of new technologies, especially information and communications). The goal’s targets refer to donor aid commitments, duty-free imports, debt levels, and access to affordable drugs and internet penetration. But, as Clarke (2004) argues, the notion of ‘partnership’ in development has typically referred to aid. And this is a longstanding view, with donor aid targets dating as far back as the Pearson Commission (Hudson 2015; Pearson 1969).

Progress to date, as measured against the official MDG 8 indicators, has been mixed and moderate. Aid (Target 8.A), after falling in recent years, has picked

up again in 2013 to hit a record high of US\$134.8 billion (UNDP 2014). Since 1990, aid has increased by 56 per cent in absolute terms (at constant prices) (OECD 2014). However, in relative terms (as a proportion of donor budgets) it has fallen to from 0.32 per cent in 1990 to 0.3 per cent in 2013. Meanwhile non-DAC (Development Assistance Committee) donors are increasing their budgets, for example the United Arab Emirates gave 1.25 per cent of their national income in aid. Also importantly, less aid is going to the poorest countries and more is going to middle-income countries. While this reflects the changing geography of poverty (Sumner 2010), it adversely impacts on Targets 8.B and 8.C, which are to address the special needs of the least developed, landlocked developing countries and small-island developing States.

Duty-free market access has improved for developing countries, as the proportion of developed country imports has increased from 54 per cent in 1996 to 80 per cent of their exports in 2012 (UNDP 2014). However, market protection, especially by Japan, the US, and the EU, continues to protect clothing textiles and agricultural products (all key exports for many developing countries), so the question of precisely which goods and services lie within this 20 per cent matters a great deal. Furthermore, the advantage that the LDCs have had over other developing countries is being steadily eroded as average tariff levels have fallen.

Debt levels have fallen in recent years (Target 8.D), with the average debt burden of developing countries standing at 3.1 per cent in 2012 (as a proportion of foreign debt service to exports revenue); it was 12 per cent in 2000. However, seasoned observers are flagging up a large increase of 75% in foreign loans to low-income countries, and a doubling of loans to sub-Saharan African countries between 2008 and 2012 (Jones 2014). The increasingly widespread use of mobile-cellular and information technologies has been well documented. The latest figures report that, by the end of 2014, 40 per cent of the world will be using the internet and there will be seven billion mobile phone subscriptions (with many people holding multiple accounts) (UNDP 2014).

Beyond the MDGs, other processes have fed into or can be used to track progress on governance. The Paris Declaration on Aid Effectiveness in 2005 and the resulting Accra Agenda for Action (OECD 2008) identified a set of principles to improve the quality of donor aid by strengthening, harmonising, and aligning developing country governance structures and processes with international aid systems. Similar to the MDGs, the Declaration was built around a set of indicators and targets that were to be met by 2010 (OECD 2008). The 2011 final report on progress was a 'sobering' read (OECD 2011): only one of the 13 targets had been met by 2010.

Finally, the Worldwide Governance Indicators (WGIs) are used by the World Bank to track six dimensions of governance (Kaufmann, Kraay & Mastruzzi 2010). They cover the following dimensions: Voice and Accountability, Political Stability and Absence of Violence, Government Effectiveness, Regulatory Quality, Rule of Law, and Control of Corruption. The time series data shows

a relatively static picture since 1996, with the global averages showing no clear pattern of systematic improvements or declines (Kaufmann, Kraay & Mastruzzi 2010). However, the authors note that at an individual country level, over one time period such as a decade, around eight per cent of countries will typically show a significant improvement or decline.

Meanwhile, in academic debates, there has been huge progress in understanding the role of domestic political institutions in development. While the original work was spearheaded by Douglass North (1991), the most influential work has been Daron Acemoglu, Simon Johnson, and James Robinson (2001, 2002) whose use of historic data and new econometric techniques enabled them to make strong causal claims about the role of institutions in development. It is worth noting that these causal claims were made by directly comparing the impact of political institutions with Sachs' claims about geography. The findings led to something of a consensus among prominent development researchers that 'institutions rule' (Rodrik, Subramanian & Trebbi 2004). It is this new perspective that has led to the inclusion of a national governance goal in the proposed goals put forward by the High-Level Panel of Eminent Persons on the Post-2015 Development Agenda.

### **What is the current debate about future goal setting?**

As noted, the major debate around the SDGs with respect to governance is whether and how to include a domestic governance goal (e.g. Bates-Eamer et al. 2012; Foresti & Wild 2014; Transparency International 2010, 2013). Specific governance targets being proposed include rule of law, budget and procurement integrity and transparency, citizen engagement, corruption and bribery, service delivery effectiveness, civil liberties, freedom of the press, access to justice, gender rights, property rights, breadth of the tax base, and so forth. The more interesting aspect of this debate is whether to have a stand-alone set of governance targets versus governance targets within each goal; for example a governance target for maternal health, a governance target for the environment, and so forth. Or, as Marta Foresti (2014:1) has persuasively argued, 'focusing all efforts on a 'stand-alone' goal risks missing the point. All eggs are being placed in one basket rather than in a wider strategy to put governance on the global agenda for the next 15 years.' Our argument builds on this and suggests that the real issues around governance and sustainable development lie 'above' and 'below' the level of national institutions.

Coordinating action across multiple SDGs raises very serious challenges in terms of regime fragmentation, as well as the particular problem structures and strategic environments distinct issue areas reveal. For example, the prospects for strengthening the implementation of the World Health Organization Framework Convention on Tobacco Control (proposed Goal 3.a) presents a very different problem structure in terms of existing cross-sectoral capabilities

and interest-alignment and implementation mechanisms, compared to halving global food waste and reducing food losses along production and supply chains (proposed Goal 12.3). Other SDGs, such as assisting developing countries in attaining long-term debt sustainability (proposed Goal 17.4), may conflict with the financial rules of international financial institutions like the International Monetary Foundation (Open Working Group of the General Assembly on Sustainable Development Goals 2014).

There is a double risk: on the one hand retreat into silo particularisms and policy prescriptions which do not account for the cross-cutting nature of many of the goals or, equally problematic, an overambitious governance frame which identifies all of these issues as facets of the same problem, but offers little in the way of concrete solutions. The solution is not just to look for win-wins, but to cluster linked SDGs whose solution is likely to hinge on understanding and ameliorating negative interactions (for instance, assuring all people have access to adequate, affordable, safe and nutritious food and phasing out all forms of agricultural support subsidies).

First, 'below'. It is now increasingly accepted that politics is central to explaining development outcomes (Carothers and de Gramont 2013; DFID 2010; Leftwich 2000, 2005; Wild & Foresti 2011). Effectively and successfully governing and managing the interactions between different sectors and development goals is always inherently a political question. It is always possible to identify governance gaps and to design suitable and necessary institutional arrangements to fill these gaps. However, the subsequent questions of whether or not these institutions are put in place, receive the necessary resources and support to operate, and can effectively implement their objectives boils down to the question of 'political will'. Anyone interested in the success of the goals will need to engage in some serious political analysis (Fritz et al. 2014; Hudson and Leftwich 2014; IDS 2010; Unsworth & Williams 2011; UNDP 2012; Wild & Foresti 2011).

Second, 'above'. Effective implementation clearly depends upon domestic configurations of institutions and political will. However, there is no getting away from the supra-national aspect of governance for sustainable development, given the irreducibly global nature of the challenge. Many developmental issues, from forest stewardship, to soil fertility, desertification, and air pollution, can only be addressed at the global level, given their transboundary character. In addition, issues conventionally perceived as domestic (read sovereign), such as poverty eradication, non-communicable disease control, health system reform, and educational provision, may also have a crucial global dimension. This is especially true as the policy space for delivering public goods is increasingly circumscribed by prescriptive economic models and expansive transnational trade regulation.

The sustainable development agenda demands coordinated action at the global level. Institutions are required to limit the negative externalities of decentralised action, to provide focal points for coordinated action, to deal



with systemic disruptions in a global context of growing interdependence and complexity, and provide some form of safeguard against severe deprivation and hardship (Keohane 2001). Sustainability and development deal with issues that do not conform to established political boundaries and require management and steering at multiple levels of authority. Scholars and practitioners have acknowledged the challenge of approaching questions of global governance in a coherent fashion (Thakur 2009). Further, in a context where power is distributed across diverse societal subsystems and among many societal actors the challenge of managing transformative change is increased (Meadowcroft 2014: 300). We illustrate these issues through a discussion of the governance of sustainable development, as well as drawing out lessons on the importance of institutional stewardship in a context of complex and competing goals (such as we have with the SDGs).

Global governance of sustainable development has a long history of goal setting, initiated with the United Nations Conference on the Human Environment held in Stockholm in 1972 and the establishment of the UNEP. However, it is the United Nations Conference on Environment and Development (UNCED) held in Rio de Janeiro in 1992 that defined the global agenda. The UNCED established the Commission on Sustainable Development (CSD), a United Nations entity mandated to monitor and review progress on globally agreed goals and targets. The Rio Declaration on Environment and Development provides an exhaustive 'blueprint' for implementation of sustainable development, containing 27 principles on development and the environment. Alongside this, the 300-page Agenda 21 document sets out international and national objectives, and provides programmatic suggestions on how to fulfil those objectives, with more than 1,000 specific policy recommendations across four principal domains: social and economic dimensions, conservation and management of resources for development, strengthening the role of major groups, and means of implementation (UNEP Agenda 21).<sup>7</sup> The UNCED also produced a series of important global governance mechanisms including new multilateral environmental conventions (the UNFCCC).

Nevertheless, the Rio Conventions inaugurated what has been described as a 'golden age' in international norm-setting (Pattberg & Widerberg 2015, in press). The 1990s saw a series of significant advances in sustainable development regulatory frameworks, including the creation of the United Nations Intergovernmental Panel on Forests, the Kyoto Protocol, the Global Programme of Action for the Protection of the Marine Environment from Land-based Activities, and the United Nations guidelines on sustainable consumption. However, observers have noted that since 2000, there has appeared to be a 'stagnation' in international law (Pauwelyn, Wessel & Wouters 2012). On the other hand, we have witnessed the rapid growth of specialised and relatively autonomous

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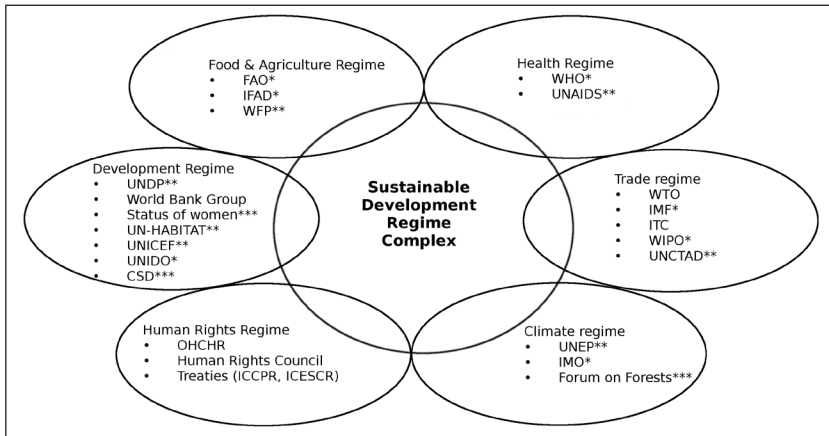
<sup>7</sup> Agenda 21 has been reaffirmed and modified at subsequent United Nations meetings.



rule or rule-complexes, often driven by private institutions and transnational networks.

The impact of global frameworks on sustainable development has been underwhelming, with Agenda 21 criticised as having 'failed to serve as a useful guide to action' (Thakur 2009). Since 2003, the CSD has served as the United Nations' hub for coordination on sustainable development, but is widely regarded as ineffective, buried in delegation chains of bureaucracy within the United Nations, and lacking implementation prerogatives or a financing mechanism (Cruickshank, Schneeberger & Smith 2012). For many observers, the global machinery underpinning a sustainable development agenda is not fit for purpose. Global structures and enhancing interagency coordination has been on the agenda since the World Summit on Sustainable Development (WSSD) in Johannesburg in 2002. Against a backdrop of accelerating unsustainable development, reform in global structures has struggled to keep pace (IPCC 2013).

In terms of institutional stewardship, Agenda 21 asserted the role of UNEP as the leading global environmental authority and produced a series of recommendations in order to strengthen its governance function. This was duly recognised by the United Nations General Assembly in December 2012. However, concerns persist over the goodness of fit of the UNEP mandate and sustainable development, which includes environment, but also goes beyond to engage issues of resource management and social and economic dimensions. **Figure 1** provides some initial insight into the sustainable development regime complex within the United Nations system. There is no coordinating mechanism within the system dedicated to managing the sustainable development complex. This governance arrangement has exacerbated difficulties in prioritisation of sustainable development objectives, leading to a silo as opposed to an integrated approach towards the three core pillars of Agenda 21: economic, social, and environmental. Post-Rio+20, UNEP has been elevated to the status of a United Nations programme. However, its jurisdiction is principally confined to environmental protection, has no authority to enforce environmental regulation, and suffers from chronic underfunding. The 2012 reform elevated UNEP's relationship with the General Assembly, however, it remains a subsidiary programme as opposed to a more robust and autonomous specialised agency such as the WHO. Although a proposal to upgrade UNEP to a specialised agency was tabled at Rio+20, as well as the possibility of superseding it with a United Nations environmental organisation, neither idea prospered. The natural coordinating mechanism within the system of the United Nations might be the CSD. However, its impact is widely regarded as underwhelming: it suffers from low-grade status as a functional commission to the United Nations Economic and Social Council (ECOSOC), has no implementation or financing apparatus, and has little strategic impact on national or international policy making (Cruickshank, Schneeberger & Smith 2012).



**Figure 1:** The Sustainable Development Regime Complex.

This figure is not exhaustive, but illustrates some of the main agencies and institutions in the global sustainable development regime complex where substantial rule-making efforts have occurred. This complex is focused on the United Nations human rights system, and does not include multilateral, bilateral, or private rule-making domains. \* Specialised agency, \*\* GA/ECOSOC fund/programme, \*\*\* Functional commission.

Key: CSD: Commission on Sustainable Development; FAO: Food and Agriculture Organization; ICCPR: International Covenant on Civil and Political Rights; ICESCR: International Covenant on Economic, Social and Cultural Rights; IFAD: International Fund For Agricultural Development; IMF: International Monetary Fund; IMO: International Maritime Organization; ITC: International Trade Centre; OHCHR: Office of the High Commissioner for Human Rights; UNAIDS: Joint United Nations Programme on HIV/AIDS; UNCTAD: United Nations Conference on Trade and Development; UNDP: United Nations Development Programme; UNEP: United Nations Environmental Programme; UN-HABITAT: United Nations Human Settlements Programme; UNICEF: United Nations Children's Fund; UNIDO: United Nations Industrial Development Organization; WFP: World Food Programme; WHO: World Health Organization; WIPO: World Intellectual Property Organization; WTO: World Trade Organization.

So, given this, how best to design effective delivery of the SDGs? Much of the governance literature has sought to enhance the effectiveness of governance arrangements through effective management of participating states and other actors. Reliance on market mechanisms, materials incentives, and sanctions to reduce transaction costs and secure credible commitments remains a powerful influence on the governance debate today. Scholarship on multilevel

governance emphasises efficiency gains through coordination, and functional and stratificatory differentiation across regimes (Zürn & Faude 2013). Put simply, a fragmented regime complex, as displayed in **Figure 1**, can be efficient where there is clear division of labour, specialisation, and role differentiation among institutions operating at different levels of governance (Biermann et al. 2009). However, the necessary condition for effective governance is effective regime management. Without regime cohesion and rule-system stewardship, the whole is unlikely to be greater than the sum of its parts. Indeed, we now understand all too well the obstacles to cooperation and enforcement when faced with asymmetric negative externalities (Mitchell & Keilbach 2001).

In turn, such governance frameworks privilege interests and underappreciate the role of power, values, and history in determining the preferences of member states when confronted with the benefits and trade-offs of cooperating on sustainable development. As observed in the collapse of global trade negotiations at the World Trade Organization (WTO), the usual mechanisms of interstate bargaining, such as reciprocity, have been no match for powerful historical grievances amid the rise of the G20 emerging economies (Young 2007). Pascal Lamy, the former Director-General of the WTO, has called for a new 'Geneva Consensus' in international trade negotiation: one which is sensitive to both global and local social, economic, and political contexts (Lamy 2013). Guided by the concept of subsidiarity (decisions should be made at as local a level as possible), others have employed a polycentric bottom-up governance approach (Abbott 2012).

To conclude, the SDGs agenda demands an evaluation of the acceptable bounds of natural, human, and human-produced capital if the biosphere and ecosystem is to be preserved. It is also an opportunity to urgently take stock of the governance actors and structures currently dedicated to the task of accelerating change at all levels of human activity, including perhaps the most important of the proposed SDGs: transformation of consumption and production patterns. A lot of faith continues to be placed in a market-based approach to sustainable development. However, it is incumbent upon sustainable development policy architects to acknowledge the fundamental limitations of the market to provide public goods. SDGs governance architecture is not simply a realm of harmonising interests in pursuit of coordination, it also requires a serious engagement with politics and power. The key factors here are political action by public authorities at all levels, the capacity to build broad-based and plural coalitions of support, and the deployment of a range of principled instruments, including legal instruments, to ensure sustainable development.

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